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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,941	11/20/2003	Reimund Schlachter	028987.52716US	6789

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EXAMINER
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PEDDER, DENNIS H

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 10/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/716,941

Applicant(s)

SCHLACHTER ET AL.

Examiner

Dennis H. Pedder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 16-33, 40-43 and 46-48 is/are rejected.
- 7) ☒ Claim(s) 7-15, 34-39, 44, 45 and 49-51 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/03 AND 5/04</u> .  | 6) <input type="checkbox"/> Other: ____                                     |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 31-39, 49-51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 31, 34, and 49 are incorrect as no extension projects beyond the groove, but rather overlaps same.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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5. Claims 1-5, 16-19, 40-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porsche in view of Steyer-Daimler-Puch AG, G9406435.0.

Porsche has the single roof element with a form-locking fixing system 14/16/18 and 41/42 at windshield frame, dimensionally stable material 7, and locking system 28/29 at the frame structure of a roll bar 6. Steyer-Daimler-Puch AG teach the prior art use of two roof elements fitted without hinges at a center plane. It would have been obvious to one of ordinary skill to provide in Porsche dual roof elements as taught by Steyer-Daimler-Puch AG in order to reduce the weight for removal.

As to claim 2, extension 16 reaches under leg wall 14 in Porsche and into a U-shaped receiving device 14/11.

As to claim 3, see bore 41.

As to claim 5, 40/41 comprises an insert of the windshield frame.

As to claim 16, the roof is stepped at edge.

As to claims 17-18, the seal 18 extends above and below the roof element and within the walls of the receiving device.

As to claim 19, see the groove formed by the web in figure 5 at the right hand side bottom.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Porsche in view of Steyer-Daimler-Puch AG as applied to claim 4 above, and further in view of Schroeder et al..

It would have been obvious to one of ordinary skill to provide in the references above a tapered conical pin with a shoulder as seen by Schroeder et al. in figure 3 to both 1) guide the pin into the bore of Porsche and 2) to provide a fixed separation distance between the

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lower side of the shoulder, which is thereby guided atop the slot 41 of Porsche, and the roof flange 14. The advantage is obvious in that the dimensional separation is not a function of an elastic seal 18, but a repeatable quantity.

7. Claims 20-25, 28-33, 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porsche in view of Steyer-Daimler-Puch AG as applied to claims 1 and 40 above, and further in view of Schlachter et al..

It would have been obvious to one of ordinary skill to provide in the references above a locking pin 31 and crank 16 as taught by Schlachter et al. in order to ease locking force. As to claim 22, Schlachter et al. has crank arm 26 and swivel shaft 25 and lever disclosed.

As to claims 23-25, Schlachter et al. has fixing conical upright pin 19 mounted on member 11, frame part of roof, and the operating device is also mounted on member 11, hence the two are mounted together.

As to claims 28-29, use of screws is common knowledge in this art in order to both fasten and unfasten.

Applicant may seasonally challenge, for the official record in this application, this and any other statement of judicial notice in timely manner in response to this office action. Please specify the exact statement to be challenged. Applicant is reminded, with respect to the specific challenge put forth, of the duty of disclosure under Rule 56 to disclose material which is pertinent to patentability including claim rejections challenged by applicant.

As to claim 30, dual operating elements are an obvious duplication of parts in order to more securely fasten.

As to claims 31-33, see figure 5 of Steyer-Daimler-Puch AG and the sealing sections to the right and below the roof extension.

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8. Claims 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porsche in view of Steyer-Daimler-Puch AG and Schlachter et al. as applied to claim 22 above, and further in view of Perks.

It would have been obvious to one of ordinary skill to provide in the references above an operating lever recessed in, and flush to, the roof as taught by Perks in order to avoid inadvertent injury.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claim 1 is further rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ono, cited by applicant as JP-3128725 to Honda Motor Co. Ltd.

***Allowable Subject Matter***

11. Claims 7-15, 34-39, 44-45, 49-51 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hoelzel is cited to show further conical pin and receiver.

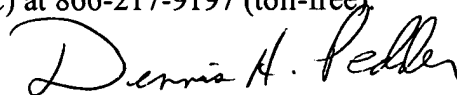
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (703) 308-2178.

The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dennis H. Pedder  
Primary Examiner  
Art Unit 3612

10/7/04

DHP

10/7/2004